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SEP 21 2007

OFFICE OF PETITIONS

In re Application of :
Alphonse Du Perron : DECISION ON SECOND RENEWED
Application No. 10/718,296 : PETITION UNDER
Filed: November 21, 2003 : 37 C.F.R. § 1.181(A)
Title: INSTANTANEOUS EVACUATION :
TUBE :
:

This is a decision on the second renewed petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on September 4, 2007.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 9, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 10, 2005. A notice of abandonment was mailed on September 23, 2005.

An original petition was filed on October 25, 2005, and was dismissed via the mailing of a decision on June 5, 2006. Petitioner had asserted that the non-final Office action had not been received, and the decision on the original petition indicated that it appeared that Petitioner had provided the Office with an incorrect correspondence address.

A renewed petition was filed on July 31, 2006, which was dismissed via the mailing of a decision on August 8, 2007, as the submission had not been executed.

With this second renewed petition, Petitioner has submitted what appears to be a substitute specification, drawings, and an abstract, although it does not appear that an amendment was submitted, directing the entry of these papers.

With this second renewed petition, it does not appear that Petitioner has submitted any arguments, evidence, or commentary addressing the merits of the dismissal of the original petition.

For this reason, the petition under 37 C.F.R. § 1.181(a) is **DISMISSED**.

It appears that Petitioner may be intentionally delaying the prosecution of this application. Petitioner is reminded that a finding of intentional delay constitutes an absolute bar to revival.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. **The reply should include a cover letter entitled "Third Renewed Petition Under 37 C.F.R. § 1.181 and/or §§ 1.137(a) and/or (b)." This is not a final agency action within the meaning of 5 U.S.C § 704.**

Alternatively, since it does not appear that Petitioner will be able to establish non-receipt of the non-final Office action, Petitioner may wish to **strongly** consider filing a petition under 37 C.F.R. §§ 1.137(a) and/or (b).

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. § 1.181(a) must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. § 1.181(a)," and should only address the deficiencies noted in this decision.

Thereafter, there will be no further reconsideration of this matter^{1, 2}.

¹ For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895); citing Wollensak v.

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail³, hand-delivery⁴, or facsimile⁵.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanoski
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Office of Petitions
United States Patent and Trademark Office

Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R. §§1.181, 182, 183.

2 If, on the third request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will not apply to that decision.

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (571) 273-8300- please note this is a central facsimile number.